SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 596

TRADESMENS NATIONAL BANK OF OKLAHOMA CITY,

Appellant,

vs.

THE OKLAHOMA TAX COMMISSION.

APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA.

STATEMENT AS TO JURISDICTION

E. A. WALKER,
Counsel for Appellant.

V. J. BODOVITZ,
Of Counsel.

INDEX.

Subject Index.

	Page
Statement as to jurisdiction	1
Statutory provision giving this Court jurisdiction	3
Statute, validity of which is involved	3
Date of judgment	3
Date of application for appeal to the Supreme Court of the United States	4
Nature of the case and rulings of the court bring the case within the jurisdictional provisions, and are substantial	4
The Federal questions involved are substantial	4
Manner and time of presenting Federal questions to Oklahoma Tax Commission, District Court and Supreme Court of Oklahoma	6
Exhibit "A"—Opinion of the Supreme Court of Oklahoma	10
Exhibit "B"—Petition in error filed by appellant in the Supreme Court of Oklahoma	13
Exhibit "C"—Acts of the Fifteenth Oklahoma Legislature, Article 6, Chapter 66, being Session Laws of Oklahoma, 1935, page 286	14
Exhibit "D"—Oklahoma Income Tax Law for 1933, being Chapter 195, Session Laws 1933, page 426	17

Table of Cases Cited.

Aberdeen Savings & Loan Association v. *Chase*, 289 Pac. 536	5
Bank of Fairfield v. *Spokane Co.*, 22 Pac. (2d) 646	5
District of Columbia v. *Riggs National Bank*, 30 F. (2d) 873	6
First National Bank of El. Reno v. *Oklahoma Tax Commission*, 90 Pac. (2d) 438	2, 8
MacAllen v. *Commonwealth of Massachusetts*, 279 U. S 620, 73 L. Ed. 874, 49 Sup. Ct. Rep. 432	5, 6

Page

Miller v. *City of Milwaukee*, 272 U. S. 713, 47 Sup. Ct. Rep. 280, 71 L. Ed. 487 5

Northwestern Mutual Life Ins. Co. v. *State of Wisconsin*, 247 U. S. 132, 38 Sup. Ct. Rep. 444, 62 L. Ed. 1025 5

People of State of New York v. *Zimmerman*, 278 U. S. 63, 48 Sup. Ct. Rep. 61, 73 L. Ed. 568 4

STATUTES CITED.

Acts of the Fifteenth Legislature, Article 6, Chapter 66, being Session Laws of Oklahoma, 1935, page 286 3

Constitution of the United States:

Article I, Section 10 ..... 2, 6

14th Amendment 2, 5, 6

Judicial Code, Section 237, as amended (28 U. S. C. A. 344) and as further amended 45 Stat. 54, Act of January 31, 1928, c. 14, Sec. 1 (28 U. S. C. A. 861a) and 45 Stat. 466, Act of April 26, 1928, c. 440 (28 U. S. C. A. 861b) 3

Oklahoma Income Tax Law for 1933, being Chapter 195, Session Laws 1933, page 426 3

Revised Statutes of the United States, Section 5219 2, 4, 5, 7

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 596

TRADESMENS NATIONAL BANK OF OKLAHOMA CITY, A BANKING CORPORATION,

Appellant,

vs.

THE OKLAHOMA TAX COMMISSION,

Appellee.

JURISDICTIONAL STATEMENT

This is an appeal from the final judgment of the Supreme Court of Oklahoma in Cause No. 29,155, on the docket of said court, entitled:

"Tradesmens National Bank of Oklahoma City, a banking corporation, Appellant and Plaintiff in Error,

vs.

The Oklahoma Tax Commission, Appellee and Defendant in Error."

Said cause was an appeal from the District Court of Oklahoma County, Oklahoma, to review the judgment and order of that court. The case as filed in the District Court

sought the recovery of certain income taxes paid to The Oklahoma Tax Commission by the Tradesmens National Bank of Oklahoma City under the 1935 Income Tax Law which were paid under protest.

Appellant prosecuted its appeal in the Supreme Court of Oklahoma to review said judgment, the case being docketed as Cause No. 29,155, was briefed and was first decided by the Court on October 17, 1939 (R. 3). The opinion is not yet officially published and a copy is attached hereto as Appendix "A". A companion case is *First National Bank of El Reno* v. *The Oklahoma Tax Commission*, reported in 90 Pac. (2d) 438.

Appellant seasonably filed its petition for rehearing (R. 6), which was by the Supreme Court of Oklahoma entertained, considered and on November 7, 1939, denied (R. 9), and said court thereby rendered its final judgment in this cause. A copy of appellant's petition in error containing assignment of error in the Supreme Court of Oklahoma is attached hereto as Appendix "B".

By said judgment the Supreme Court of Oklahoma affirmed as against appellant's claim is denial of due process and equal protection of the laws under the Fourteenth Amendment of the Constitution of the United States; and further, appellant's claim of denial of due process and equal protection of the laws as being in violation of Article 1, Section 10, Constitution of the United States; and, further, appellant's claim of denial of due process and equal protection of the laws because of violation of the inherent power of Congress to borrow money on the credit of the United States; and, further, as being in violation of the Acts of Congress declaring such bonds and securities and the income therefrom to be non-taxable; and, further, as being in violation of Section 5219, Revised Statutes of the United States.

Statutory Provision Giving This Court Jurisdiction

This Court has jurisdiction of this cause under Judicial Code, Section 237, as amended (28 U. S. C. A. 344), which provides:

> "(a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity, may be reviewed by the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court may reverse, modify or affirm the judgment or decree of such State court, and may, in its discretion, award execution or remand the cause to the Court from which it was removed by the writ,"

and 45 Stat. 54, January 31, 1928, c. 14, Sec. 1, 28 U. S. C. A. 861a and 45 Stat. 466, April 26, 1928, c. 440, 28 U. S. C. A. 861b, substituting appeal for the writ of error.

Statute, Validity of Which is Involved

The Statute of Oklahoma, the validity of which is involved, is Article 6, Chapter 66, Acts of the Fifteenth Legislature, being Session Laws of Oklahoma, 1935, page 286. The pertinent provisions are hereto attached as Appendix "C". Also Oklahoma Income Tax Law for 1933, being Chapter 195, Session Laws 1933, page 426. The pertinent provisions are hereto attached as Appendix "D".

Date of Judgment

The date of the judgment sought to be reviewed was November 7, 1939, at which time the Supreme Court of

Oklahoma, having judicially considered appellant's Petition for Rehearing, denied the same, whereupon the original decision of October 17, 1939, became finally effective.

Date of Application for Appeal to the Supreme Court of the United States

Petition for appeal to this court was presented to the Chief Justice of the Supreme Court of Oklahoma on December 4, 1939.

Nature of the Case and Rulings of the Court Bring the Case Within the Jurisdictional Provisions, and are Substantial

The District Court of Oklahoma County and the Supreme Court of Oklahoma, by affirming said cause on appeal, denied recovery to the taxpayer Tradesmens National Bank of Oklahoma City, a banking corporation, who had paid its 1936 State Income Tax under protest and filed suit within the statutory time for its recovery. The taxpayer in paying said taxes protested same for the reason that said Act under which said taxes were paid was in violation of the Constitution of the United States as being (a) a denial of due process of law; (b) a denial of equal protection of the law; (c) a denial of the inherent constitutional power of Congress to borrow money on the credit of the United States; (d) a violation of Section 5219, Revised Statutes of the United States; (e) the upholding of a State Act which impaired the obligations of a contract; and (f) the upholding of a State Act which was enacted solely to tax income from obligations of the United States.

These rulings authorize an appeal: *Miller* v. *Schoene*, 48 S. Ct. 246, 72 L. Ed. 568; *People of State of New York* v. *Zimmerman*, 48 S. Ct. 61, 278 U. S. 63, 73 L. Ed. 568.

The Federal Questions Involved are Substantial

The Supreme Court by its decision denied appellant's claim of discrimination and appellant's claim of denial of

due process and equal protection of laws. For the year 1936 appellant paid over $6,000 in State income taxes under protest and will be required to pay for each succeeding year, as will all other national banks in Oklahoma, until this particular statute shall have been finally construed by this Court.

(1) The decision upheld the 1935 Oklahoma Income Tax Law, and particularly Sections 16, 17, 18 and 19 thereof, which taxed interest upon obligations of the United States, which enactment superseded the 1933 Income Tax Law of the State of Oklahoma and which provisions were identical as dealing with taxation of national banks except that Section 18 of the 1933 law specifically excluded income from obligations of the United States.

(2) The decision upholding the Act was in derogation of the power of Congress to borrow money on the credit of the United States. *MacAllen* v. *Commonwealth of Massachusetts*, 279 U. S. 620, 73 L. Ed. 874, 49 S. Ct. 432, 65 A. L. R. 866 (1929); *Miller* v. *City of Milwaukee*, 272 U. S. 713, 47 S. Ct. 280, 71 L. Ed. 487; *Northwestern Mutual Life Ins. Co.* v. *State of Wisconsin*, 247 U. S. 132, 38 S. Ct. 444, 62 L. Ed. 1025.

(3) Said decision, by upholding the statute, denied appellant due process and equal protection of laws under the Fourteenth Amendment to the Constitution of the United States. *Aberdeen Savings & Loan Association* v. *Chase*, 289 Pac. 536 (Wash.).

(4) The decision sustains the 1935 Oklahoma Income Tax Law which is in derogation of the letter and spirit of Section 5219, Revised Statutes of the United States. *Aberdeen Savings & Loan Association* v. *Chase*, 289 Pac. 536; *Bank of Fairfield* v. *Spokane Co.*, 22 Pac. (2d) 646 (Wash.).

(5) The decision of the Supreme Court affirming the judgment sustained an Act which impaired the obligations of a contract. *MacAllen* v. *Commonwealth of Massachusetts*, 279 U. S. 620, 73 L. Ed. 874, 49 S. Ct. 432; *District of Columbia* v. *Riggs National Bank*, 30 Fed. (2d) 873 (1929).

Manner and Time of Presenting Federal Questions to Oklahoma Tax Commission, District Court and Supreme Court of Oklahoma.

(A) At the time the taxes were paid under protest by the appellant, the letter of protest accompanying the check in payment therefor raised the question as to said Act of the Legislature being in violation of the United States Constitution (Page 2, Case-Made).

(B) The petition filed in the District Court of Oklahoma County within thirty days after the payment of said taxes under protest specifically raised the Federal questions (Page 2, Case-Made). At page 3 of the petition it is alleged that the said tax "was illegal, erroneous, excessive and void; * * * that the said provisions of the said Act, to-wit, section 8 (8), (c) and section 18 (b) * * * are unconstitutional and void and violate both the Constitution of the United States and * * * that said discriminatory provisions violate Section 10 of Article I, and the Fourteenth Amendment of the Constitution of the United States in that the said legislative enactment deprives the plaintiff bank of its property without due process of law, and of the equal protection of the laws * * * and further, that it violates the legal contract existing between the Federal Government and the holders of Federal Government securities under which the income from said securities and said securities themselves are tax exempt, such provision being a part of the statutes authorizing the

issuance of said securities and of the securities themselves. • • • Plaintiff further states that the said quoted portions of the said Act as set forth in paragraph (a) above are illegal and void in that they violate Section 5219, United States Revised Statutes as amended, relating to national banking associations."

The answer filed in the District Court of Oklahoma County by the appellee specifically denied the allegations that the imposition of such taxes deprived appellant of its property without due process of law or that it denied appellant the equal protection of the laws, and specifically denied that said statute violated the provisions of the Federal Constitution (Page 22, Case-Made).

The District Court of Oklahoma County, being the trial court, with the petition and answer before it, with the above quotations therein and with the stipulation of facts as found at page 27 of the Case-Made, denied relief to the plaintiff and necessarily had to pass on the issues as raised by the petition and answer.

(C) The Federal questions were raised in the appellant's petition in error at the time the appeal was lodged in the Supreme Court of Oklahoma (Appendix B). The portions of said petition in error wherein these matters were raised are listed as follows:

> "3. Said Court erred in not holding the so-called income tax on income of plaintiff-in-error derived from Federal securities, Federal Reserve Bank stock, Federal Land Bank bonds, Joint Stock Land Bank bonds and Territory of Hawaii bonds, unconstitutional and as a violation of both the United States and Oklahoma Constitutions.
>
> • • • • • • •
>
> "5. Said Court erred in not holding said purported Income Tax Law in violation of both the Constitution

of the United States and the Constitution of Oklahoma in that it is discriminatory and not a uniform taxation.

"6. Said Court erred in not holding said purported Income Tax Law in violation of the Constitution of the United States and the Constitution of Oklahoma in that it is a taxation of Federal instrumentalities.

"7. Said Court erred in not holding that said Act is unconstitutional under both the Constitution of the United States and Oklahoma as being discriminatory under Section 5219, United States Statutes."

(D) The brief filed by appellant in the Supreme Court of Oklahoma specifically raised the Federal questions. The Supreme Court of Oklahoma in its Opinion specifically mentioned the Federal questions raised by the appellant, as shown in Appendix "A". The Court said:

"The tax levied by the Act involved herein is not an income tax, but is a franchise tax measured by net income. The levy of such tax is specifically authorized by Section 5219, U. S. Revised Statutes, Title 12, Section 548 U. S. C. A. The language used in the title is amply sufficient to designate the levy of a tax of this character."

The Court further said:

"The other propositions relied upon for reversal were presented to this court in the case of First National Bank of El Reno *v.* Oklahoma Tax Commission, 90 P. (2d) 438, and were determined contrary to the contentions of plaintiff."

In the *First National Bank of El Reno* v. *Oklahoma Tax Commission*, 90 Pac. (2d) 438, at page 440 the Court showed that the Federal questions were raised and that they were passed upon. The Court used the following language:

"The constitutionality of these provisions of the Act is challenged by plaintiff on the following grounds:

"1. As impairing the obligation of contracts.

"2. As an attempt to impose a tax upon income derived from securities and instrumentalities of the United States.

"3. As depriving plaintiff of its property without due process of law and denying the equal protection of the law in violation of the Fourteenth Amendment to the United States Constitution.

"4. As an impairment and in derogation of the power of Congress to borrow money on the credit of the United States."

The Supreme Court of Oklahoma treated each and all of the above and foregoing questions as properly raised under the Oklahoma practice, and necessarily decided them and each of them against appellant.

Respectfully submitted,

E. A. WALKER,
Attorney for Appellant.

V. J. BODOVITZ,
Of Counsel.

EXHIBIT "A"

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 29,155,

TRADESMENS NATIONAL BANK OF OKLAHOMA CITY, a banking Corporation, Plaintiff in Error,

v.

THE OKLAHOMA TAX COMMISSION, Defendant in Error

Syllabus

1. Article 6, Chapter 66, Session Laws 1935, is not violative of section 57, Article 5 of the Constitution insofar as said Act levies an annual tax on National banking associations "according to or measured by" the net income of such associations.

2. Section 16, Article 6, Chapter 66, p. 297, Session Laws 1935, 68 Okl. St. Ann. para. 887, providing for the taxation of national banking associations, which levies a tax "according to or measured by", the net income of such associations, constitutes a valid and binding exercise of the taxing power of the State notwithstanding further provisions of the Act, providing that such income shall include "the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income of which is tax free.

3. The state is not obliged to apply the same system to the taxation of national banks that it uses in the taxation of other property, provided no injustice, inequality or unjust discrimination is inflicted upon them.

Appeal from the District Court of Oklahoma County

Hon. Lucius Babcock, Judge

AFFIRMED

Spiers & Bodovitz, of Oklahoma City, for Plaintiff in Error.

Dick Jones, A. L. Herr, C. D. Stinchecum, Rowe Cook, of Oklahoma City, for Defendant in Error.

OSBORN, J.:

This action was instituted in the District Court of Oklahoma County by the Tradesmen's National Bank, hereinafter referred to as plaintiff, against the Oklahoma Tax Commission, hereinafter referred to as defendant, wherein it was sought to recover certain taxes paid by plaintiff under protest. The cause was tried to the court, a judgment was entered in favor of defendant and plaintiff has appealed.

The tax involved herein was assessed against plaintiff under the provisions of sec. 16, art. 6, chap. 66, Session Laws 1935. The income against which the tax was levied consisted of dividends on stock owned by plaintiff in the Federal Reserve Bank and interest received by plaintiff on bonds or securities issued by the United States Government.

For reversal plaintiff submits the following propositions:

"1. House Bill No. 192, Article 6, Chapter 66, Session Laws of 1935, is unconstitutional as being violative of Article 5, Section 57, of the Oklahoma Constitution.

"2. The 1935 Oklahoma Income Tax Law is unconstitutional as being discriminatory under the Constitution of the State of Oklahoma.

"3. The 1935 Oklahoma Income Tax Law is unconstitutional as being violative of the Fourteenth Amendment to the United States Constitution.

"4. The 1935 Oklahoma Income Tax Law is unconstitutional as being a direct tax on the income from obligations and securities of the United States.

"5. The 1935 Oklahoma Income Tax Law violates the letter and spirit of Section 5219 Revised Statutes of the United States."

Under plaintiff's first proposition it is argued that the Act levies an income tax against National Banking Associations which purpose and intent is not disclosed in its title. The applicable portion of the title is as follows:

"• • • an annual tax on National Banking Associations, State Banks and Trust Companies, according to or measured by their net incomes authorized by Method Four (4) of Section 5219, U. S. Revised Statutes as Amended, relating to National Banking Associations, • • •"

The tax levied by the Act involved herein is not an income tax, but is a franchise tax measured by net income. The levy of such tax is specifically authorized by Section 5219, U. S. Revised Statutes, Title 12, Section 548 U. S. C. A. The language used in the title is amply sufficient to designate the levy of a tax of this character.

The other propositions relied upon for reversal were presented to this court in the case of *First National Bank of El Reno* v. *Oklahoma Tax Commission*, 90 P. (2d) 438, and were determined contrary to the contentions of plaintiff. It appears that all of the arguments presented by plaintiff were before the Court in that case. Therein it was held:

"Section 16, Article 6, Chapter 66, p. 297, Session Laws 1935, 68 Okl. St. Ann. para. 887, providing for the taxation of national banking associations, which levies a tax 'according to or measured by', the net income of such associations, constitutes a valid and binding exercise of the taxing power of the State notwithstanding further provisions of the Act, providing that such income shall include 'the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income of which is tax free.

"The state is not obliged to apply the same system to the taxation of national banks that it uses in the taxation of other property, provided no injustice, inequality or unjust discrimination is inflicted upon them."

It would serve no useful purpose to reiterate the discussion contained in that opinion.

The judgment is affirmed.

Welch, V. C. J., Riley Corn, Gibson, Hurst, Davison and Danner, JJ.: Concur.

Bayless, C. J.: Absent.

EXHIBIT "B"

[Stamp:] Filed in Supreme Court of Oklahoma, Mar. 27, 1939. Andy Payne, Clerk

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 29155

TRADESMEN'S NATIONAL BANK, OF OKLAHOMA CITY, a Banking Corporation, *Plaintiff-in-Error*,

vs.

THE OKLAHOMA TAX COMMISSION, *Defendant-in-Error*

Petition in Error

The said Tradesmen's National Bank, of Oklahoma City, a banking corporation, plaintiff-in-error, complains of said defendant-in-error in that the said The Oklahoma Tax Commission, at the —— term of the District Court of Oklahoma County, State of Oklahoma, recovered a judgment by the consideration of said Court denying relief and recovery of the plaintiff-in-error in a certain action then pending in said Court wherein the said Tradesmen's National Bank, of Oklahoma City, a banking corporation, was plaintiff and The Oklahoma Tax Commission was defendant. The original case-made, duly signed, attested and filed, is hereto attached, marked "Exhibit A" and made a part of this Petition in Error; and the said Tradesmen's National Bank, of Oklahoma City, a banking corporation, avers that there is error in the said record and proceedings in this, to-wit:

1. Said Court erred in overruling the motion of the plaintiff for a new trial.

2. Said Court erred in not rendering judgment for the plaintiff-in-error.

3. Said Court erred in not holding the so-called income tax on income of plaintiff-in-error derived from Federal securities, Federal Reserve Bank stock, Federal Land Bank bonds, Joint Stock Land Bank bonds and Territory of

Hawaii bonds, unconstitutional and as a violation of both the United States and Oklahoma Constitutions.

(4.) Said Court erred in holding that said purported Oklahoma Income Tax Law is not a violation of the Oklahoma Constitution as regards its title.

(5.) Said Court erred in not holding said purported Income Tax Law in violation of both the Constitution of the United States and the Constitution of Oklahoma in that it is discriminatory and not a uniform taxation.

(6.) Said Court erred in not holding said purported Income Tax Law in violation of the Constitution of the United States and the Constitution of Oklahoma in that it is a taxation of Federal instrumentalities.

(7.) Said Court erred in not holding that said Act is unconstitutional under both the Constitution of the United States and Oklahoma as being discriminatory under Section 5219, United States Statutes.

Wherefore, plaintiff-in-error prays that said judgment so rendered may be reversed, set aside and held for naught; and that a judgment may be rendered in favor of the plaintiff-in-error and against defendant-in-error for the relief and judgment sought, and the plaintiff-in-error be restored to all rights that it has lost by the rendition of such judgment; and for such other relief as to the Court may seem just.

TRADESMEN'S NATIONAL BANK, OF OKLAHOMA CITY, a Banking Corporation,
By SPIERS & BODEVITZ,
Its Attorneys.

EXHIBIT "C"

ARTICLE 6

Income Tax

AN ACT relating to and providing for an annual tax upon the net income of individuals, corporations, estates and

trusts, and an annual tax on National Banking Associations, State Banks and Trust Companies, according to or measured by their net incomes authorized by Method Four (4) of Section 5219, U. S. Revised Statutes as Amended, relating to National Banking Associations, and complying therewith, to provide revenues for general governmental functions of the State; providing for the disposition of revenues arising thereunder; prescribing the rates of such taxes; providing for specific deductions and exemptions from said tax; providing for the computation and collection of such taxes by the Oklahoma Tax Commission and empowering same to enforce said Act and to prescribe and enforce rules and regulations in relation thereto; defining the powers of said Commission in the collection of additional and delinquent taxes; making certain violations of Acts unlawful and prescribing penalties therefor; requiring income tax returns to be made by taxpayers and prescribing how same shall be prepared and filed; making said taxes and penalties a lien on taxpayers' property and providing for the enforcement thereof; requiring persons paying income to individuals to report same to said Commission; providing, in certain cases, for withholding income taxes at the source and the method of payment thereof; providing a legal remedy for aggrieved taxpayers; repealing Chapter 195, Oklahoma Session Laws 1933, and all Acts or parts of Acts in conflict with this Act, except as same apply to accrued income taxes and penalties thereon and to the collection thereof; providing that if a portion of Act is held invalid same will not affect other portions thereof and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Section 1. Oklahoma Income Tax Law of 1935.

The Title of this Act shall be: "Oklahoma Income Tax Law of 1935."

* * * * * * *

Section 8. Gross Income Defined—Exemptions—Interstate Business.

* * * * * * *

(b) Does not include the following items which shall be exempt from taxation under this Act:

. . . . . .

(4.) Interest upon the obligations of the United States or its possessions, or upon securities issued under authority of an Act of Congress, the income from which is tax-free, except as hereinafter provided;

. . . . . .

Section 16. National Banking Associations.

(a) In lieu of the tax imposed by Section 6, every national banking association located or doing business within the limits of the State of Oklahoma, shall annually, pay to this State, a tax according to, or measured by, its net income, to be computed in the manner hereinafter provided, at the following rates upon the basis of its entire net income for the next preceding fiscal or calendar year:

Six (6%) per centum of the amount of the net income as herein provided.

(b) The State of Oklahoma is hereby adopting method numbered (4), authorized by Section 5219, U. S. Revised Statutes, as amended. The tax imposed by this Section shall be exclusive and in lieu of all taxes imposed by the State of Oklahoma, or any subdivision thereof, on the property of any association liable to tax hereunder; provided, that nothing in this Section shall be construed to exempt the real property of national banking associations from taxation to the same extent, according to its value, as other real property is taxed.

(c) Any tax levied under this Section shall accrue on the first day after the close of the taxable year, as that term is defined in Section 4 (h), and the basis of the tax, according to, or measured by, the net income, shall include the entire net income from all sources to be determined by subtracting from the gross income, as defined in Section 18, the deductions allowed in Section 9.

Provided, however, that no deductions shall be allowed to any national bank or trust company for debts ascertained to be worthless and charged off within the taxable year, as defined by Section 9 (f) hereof, unless said debts actually be charged off either under the order or direction, or with the approval of the examining officials having charge of the supervision or examination of said bank or trust company.

* * * * * * *

Section 18. Gross Income Defined—Interstate Business.

(a) The term "Gross Income" includes gains, profits and income derived from the business, of whatever kind and in whatever form paid, including gains, profits or income from dealings in property, whether real or personal, or gains, profits, or income received as compensation for services, as interest, rents, commissions, brokerage or other fees or otherwise received in carrying on such business, including all dividends received on stocks and all interest received from state, municipal or other bonds or other securities, and gains, profits and income derived from any source whatsoever.

(b) The term "Gross income" shall also include the interest upon the obligations of the United States, or its possessions, or upon securities issued under the authority of an Act of Congress, the income from which is tax free.

(c) If the gross income is derived from business carried on both within and without this State, gross income means that proportion thereof which is derived from business carried on within this State, to be allocated and determined under rules and regulations to be prescribed by the Commission.

EXHIBIT "D"

Chapter 195

INCOME TAX

House Bill No. 1

AN ACT providing for relief from ad valorem taxation by levying an annual tax upon the net income of individuals,

corporations, estates and trusts; by levying an annual tax on National Banking Associations, State Banks and Trust Companies, according to or measured by their net incomes authorized by method four (4) of Section 5219, U. S. Revised Statutes as amended, relating to National Banking Associations, and complying therewith; providing for the disposition of the revenues arising hereunder; prescribing the rates of such taxes herein levied and defining terms; providing for specific exemptions to individual taxpayers; exempting religious, charitable, eleemosynary, educational, benevolent, fraternal and other corporations or organizations not organized for profit; providing for the computation and collection of such taxes by the Oklahoma Tax Commission and empowering said Commission to enforce this Act and to prescribe and enforce rules and regulations in relation thereto; defining the powers of said Commission in the collection of additional and delinquent taxes and prescribing penalties for the violation of this Act; requiring returns by taxpayers and prescribing how the same shall be prepared and filed; making such taxes and penalties a lien on taxpayers' property, and for the enforcement thereof; requiring persons paying income to individuals to report same to said Commission; providing, in certain cases for withholding such taxes at the source and providing method of payment; providing a legal remedy for aggrieved taxpayers; declaring the provisions of this Act to be severable; repealing Sections 12370, 12371 and all of Article 15, Chapter 66, Oklahoma Statutes, 1931, except as to accrued taxes and penalties and the collection and enforcement thereof, and repealing House Bill Number One (1), passed by the Fourteenth Legislature of Oklahoma, 1933, approved April 8, 1933, and all other laws in conflict herewith; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Title of Act.

Section 1. The title of this Act shall be: "Oklahoma Income Tax Law."

. . . . . .

Gross Income—Definition of—Inclusions and Exclusions—Exemptions.

Section 8. The term "gross income," except as otherwise provided in paragraph (c) of this Section,

. . . . . .

(b) Does not include the following items which shall be exempt from taxation under this Act:

. . . . . .

(4) Interest upon the obligations of the United States or its possession, or upon securities issued under authority of an Act of Congress, the income from which is fax-free;

National Banks—Tax in Lieu of Normal Tax—Percentums.

Section 16. (a) In lieu of the tax imposed by Section 6, every national banking association located or doing business within the limits of the State of Oklahoma, shall, annually, pay to the State a tax according to, or measured by, its net income, to be computed in the manner hereinafter provided, at the following rates upon the basis of its entire net income for the next preceding fiscal or calendar year:

(1) One percentum (1%) of the first $2,000 of the amount of net income in excess of the credit against net income provided in Section 11(a);

(2) Two percentum (2%) of the next $2,000 of such excess amount;

(3) Three percentum (3%) of the next $3,000 of such excess amount;

(4) Four percentum (4%) of the next $3,000 of such excess amount; and

(5) Five percentum of the next $4,000.00 of such excess amount; and

(6) Six percentum of the remainder of such excess amount.

(b) The State of Oklahoma is hereby adopting method numbered (4), authorized by Section 5219, U. S. Revised Statutes, as amended. The tax imposed by this Section shall be exclusive and in lieu of all taxes imposed by the State of Oklahoma, or any subdivision thereof, on the property of any association liable to tax hereunder; Provided, that nothing in this Section shall be construed to exempt the real property of national banking associations from taxation to the same extent, according to its value, as other real property is taxed.

. . . . . .

Gross Income—What Included In.

Section 18. (a) The term "gross income" includes gains, profits and income derived from the business, of whatever kind and in whatever form paid, including gains, profits or income from dealings in property, whether real or personal, or gains, profits or income received as compensation for services, as interest, rents, commissions, brokerage or other fees or otherwise, received in carrying on such business, including all dividends received on stocks and all interest received from State, municipal or other bonds or other securities, and gains, profits and income derived from any source whatsoever. Provided that the interest upon the obligations of the United States or its possessions, or upon securities issued under authority of an Act of Congress, the income from which is tax free, shall not be included in such gross income.

(b) If the gross income is derived from business carried on both within and without the State, gross income means that portion thereof which is derived from business carried on within the State, to be allocated and determined under rules and regulations to be prescribed by the Commission.

. . . . . .